

4416. Out-of-State Competition.

- (a) For purposes of Panel funding, out-of-state competition exists if ~~the individual function and/or unit of a company's individual facility, functional group or unit~~ for which training funds are sought meets the following conditions:
- (1) produces a product sold out-of-state; and/or
 - (2) produces a product sold in-state which competes with products produced out-of-state; and/or
 - (3) provides a service directly to or on behalf of customers located out-of-state; and/or revenues derived directly from this service exceed 25% of the gross annual revenues for that individual facility, functional group or unit; and/or
 - (4) provides a service in the state in competition with businesses, which, on a continuing basis, providers of provide the same service in this state solely from locations located outside the state.
- (b) A company engaged in manufacturing is deemed to meet the out-of-state competition requirement for purposes of Panel funding if that company meets the definition of ~~Division D Sector 31-33, Manufacturing as contained in the Standard Industrial Classification (SIC) North American Industrial Classification System (NAICS) Manual, or is assigned by the Employment Development Department a SIC NAICS within Division D, Manufacturing, Subsectors 311-339 Major Groups 20-39~~ as follows:

STANDARD INDUSTRIAL CLASSIFICATIONS NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM OF THE MANUFACTURING INDUSTRY

Division D.: Manufacturing	
Major Group Number <u>Subsector</u>	Products
20 <u>311</u>	Food and Kindred products
24 <u>312</u>	<u>Beverage and</u> Tobacco products
<u>313</u>	<u>Textiles</u>
22 <u>314</u>	Textile Mill Products, <u>Except Apparel</u>
23 <u>315</u>	Apparel Products and other finished products made from fabrics and similar materials

Division D.: Manufacturing	
Major Group Number Subsector	Products
31 <u>316</u>	Leather and <u>Allied leather</u> Products
24 <u>321</u>	Lumber and Wood Products, Except Furniture
26 <u>322</u>	Paper <u>Manufacturing</u> and allied products
27 <u>323</u>	Printing <u>And Related Manufacturing</u> , publishing and allied industries
29 <u>324</u>	<u>Coal</u> , Petroleum Refining and Related Industries
28 <u>325</u>	Chemicals and <u>Refined</u> allied Products
30 <u>326</u>	<u>Plastics and</u> Rubber and miscellaneous plastic products
32 <u>327</u>	<u>Nonmetallic Mineral</u> Stone, clay, glass and concrete products
33 <u>331</u>	Primary Metal <u>products</u> industries
34 <u>332</u>	Fabricated Metal Products, except machinery and transportation equipment
35 <u>333</u>	Industrial and commercial machinery and computer equipment
<u>334</u>	<u>Computer and Electronics Equipment</u>
36 <u>335</u>	Electronic and other electric Equipment, <u>Appliances</u> and <u>Related Components</u> , except computer equipment
37 <u>336</u>	Transportation Equipment
25 <u>337</u>	Furniture and <u>Related Products</u> Fixtures
39 <u>339</u>	Miscellaneous Manufacturing Industries
38	Measuring, analyzing and controlling instrument; photographic, medical and optical goods; watches and clocks

- (c) companies assigned by the Employment Development Department to any of a NAICS Code within the following Sectors, Subsectors, Industry Groups and/or Industries SIC codes are also deemed to meet out-of-state competition:

<u>Major Group</u> <u>Subsector</u>	Industry Group(s) Title or Number	Products
01 <u>111</u>	Agricultural <u>Crop</u> Production	Crops
02 <u>112</u>	Agricultural <u>Animal</u> Production	Livestock and Animal Specialties
08 <u>113</u>	<u>Logging and Forestry</u> Industry Group 081 Industry Group 083	<u>Timber Tracts and Nursery Products</u> <u>Forest Nurseries</u>
09 <u>114</u>	Fishing, Hunting & Trapping	<u>Marine and Wildlife Products</u>
13 <u>211</u>	Industry Groups <u>2111</u> 131 & 132	Oil & Gas Extraction
12 <u>212</u>	Industry Groups <u>2121</u> 122 & 123	Coal Mining
10 <u>212</u>	Industry Groups <u>2122</u> 101-106, 109	Metal Mining
14 <u>212</u>	Industry Groups <u>2123</u> 141-147 & 149	Mining of Nonmetallic Minerals
73 <u>511</u>	<u>Publishing Industries</u> Industry Number 7372	<u>Newspapers, Books and Prepackaged Software</u>
78 <u>512</u>	Industry <u>51211, 51219</u> 7812	<u>Motion Picture and Video Production, Tele-production and Postproduction</u>
<u>541</u>	<u>Industries 54133, 54138, 54171</u>	<u>Engineering Services, Testing Laboratories and Scientific Research</u>
<u>541</u>	<u>Industries 541511, 541512</u>	<u>Custom Computer Programming and Computer System Design</u>

(d) A company's facility, functional group and/or unit is also deemed to be facing out-of-state competition if it meets any of the following categories:

(1) The facility ~~applicant is located in California, and~~ is the Corporate Headquarters of a company that ~~does~~ maintains a significant presence ~~business~~ outside of California.

(A) The company will be deemed by the Panel to be maintaining a significant presence outside of California if it meets at least one of the following criteria:

(1) more than 25% of total gross annual revenues are derived from permanent company facilities, offices, operations, divisions, branches, stores, or franchises located outside of California; and/or

(2) 25% or more of the permanent company facilities are located outside of California; and/or

(3) 25% or more of the permanent full-time employees are employed at company facilities located outside of California.

(B) In addition to the Corporate Headquarters facility, a functional group and/or unit ~~company's facility~~ is eligible if it provides ~~significant~~ support services to the company's facilities, offices, operations, divisions, branches, stores, or franchises as part of the company's significant presence ~~located~~ outside of California.

(2) The applicant is a mortgage bank or related institution engaged in the packaging/sales and/or servicing activities related to loans. These loan activities must be conducted by the bank or institution within California. Only those jobs directly involved with the mortgage banking function will be considered for training.

(3) The applicant is a destination resort, convention/conference center or convention/conference hotel that competes nationally and/or internationally for customers, as set forth below:

(A) Destination resort means an establishment and its affiliated facilities which:

1. is a recognized destination, or
2. operate in conjunction with, or by virtue of, a destination recreational complex or attraction, and have derived at least 25 percent of its gross annual revenue from out-of-state visitors.

(B) For purposes of this subsection, the term "destination" refers to the establishment, recreational complex, or attraction being itself the primary reason for people traveling to it. A city is not, in and of itself, a destination.

- (C) For purposes of this subsection, the term "convention/conference center" means an establishment primarily dedicated to holding conventions, conferences, and/or trade shows or exhibits.
- (D) For purposes of this subsection, the term "convention/conference hotel" means an establishment that derives at least 25 percent of its gross annual revenue (inclusive of rooms and food/beverage revenues) from conventions, conferences, and/or trade shows or exhibits involving transient lodging requirements.
- (E) A destination resort, convention/conference center or convention/conference hotel will be deemed to compete nationally and/or internationally for customers if it meets at least three of the following criteria:
 - 1. Participates in out-of-state sales missions or trade shows;
 - 2. Routinely conducts out-of-state sales efforts;
 - 3. Routinely advertises in media in which its out-of-state competitors also advertise;
 - 4. Contributes financially to joint community based out-of-state marketing efforts;
 - 5. Maintains a marketing plan which addresses the national/international market; or
 - 6. Documents that it is in competition with similar establishments outside of California.

(4) The facility is a call center with over 50% of its annual call volume originating from outside of California. For purposes of Panel funding, a call center is defined as a facility which meets both of the following criteria: (a) is primarily engaged in taking orders or providing customer service using the telephone or internet on behalf of company customers; and (b) does not provide any telemarketing services. If the company facility is not primarily engaged in the call center function, only the functional groups and their immediate functional support will be considered under this subsection.

Authority: Section 10205(l), Unemployment Insurance Code.
Reference: Section 10200(a), Unemployment Insurance Code.
Effective: July 19, 1996